

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HEYDER GALARZA

v.

ROBERT SHANNON, et al.,

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CIVIL ACTION

NO. 05-5535

ORDER

AND NOW, this day of , 2005, upon consideration of Petitioner's *pro se* Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254, the Commonwealth's letter brief, and after review of the Report and Recommendation of United States Magistrate Judge Carol Sandra Moore Wells, it is hereby ORDERED that:

1. The Amended Report and Recommendation is APPROVED and ADOPTED;
2. The Petition for Writ of Habeas Corpus is DISMISSED WITHOUT PREJUDICE to Petitioner's right to refile promptly at the conclusion of state court proceedings; and
3. Petitioner has not met statutory requirements to have his case heard, and no reasonable jurist could find this procedural ruling debatable; thus, a certificate of appealability is DENIED.

IT IS SO ORDERED.

BY THE COURT:

J. NORMA L. SHAPIRO